

REMARKS

Applicants thank the Examiner for the thorough consideration given the present application.

Claims 1-3, 5-9, 12 and 13 are currently being prosecuted. The Examiner is respectfully requested to reconsider her rejections in view of the remarks as set forth below.

Rejection Under 35 USC §103

Claims 1-7, 9, 12 and 13 stand rejected under 35 USC §103 as being obvious over Paul (U.S. Patent 6,217,890) in view of Hamajima et al (U.S. Patent 5,865,822). This rejection is respectfully traversed.

First, it is noted that claim 4 has already been cancelled and accordingly the inclusion of claim 4 in the rejection is assumed to be an oversight and will not be treated further.

The Examiner points out that the Paul reference shows an absorbent article having a liquid permeable top layer, a liquid impermeable leak proof layer and an absorbent layer having a superabsorbent polymer. The Examiner also states that the reference shows an agent having a skin care effect which is activated on contact with moisture. The Examiner admits that this reference does not show that the superabsorbent polymer has a water

absorption of 30g/g in terms of physiological saline absorption measured after centrifugal dewatering. The Examiner relies on Hamajima et al to show such a polymer having a water absorption of this amount. The Examiner states that it would have been obvious to provide the superabsorbent polymer described by Hamajima et al in the article described by Paul. The Examiner furthermore states that it is reasonable to assume that the skin care agent does not cause a substantial reduction in water absorbing performance per unit weight of the superabsorbent polymer.

Applicants disagree with the Examiner's rejection. In particular, Applicants disagree with the Examiner's statement that it is reasonable to assume that the skin care agent does not cause a substantial reduction in water absorbing performance. Neither of the references discusses the possibility of the water absorbent performance and does not give any indication that such a skin care agent would not cause such a reduction. It is unknown why the Examiner considers it reasonable to assume this fact, since neither of the references even discuss the problem, much less the solution.

Furthermore, Applicants point out that a Declaration Under 37 CFR 1.132 was filed on June 2, 2003 by the inventor who described the experiments that shows that the agent used in Paul, namely zinc sulfate heptahydrate does decrease the absorbing performance of the

superabsorbent polymer. Accordingly, the only evidence presented thus far is this declaration which indicates that the agent does cause a reduction. The Examiner is requested to explain why she feels that it is reasonable to assume that the agent does not cause a reduction in view of the declaration which specifically describes that it does.

Further, the Examiner is requested to explain why it would be reasonable to make such an assumption, anyway even without any evidence to the contrary, since there is no indication that it is true and no discussion in either reference of the problem to which this is directed. Furthermore, one of the main efforts of the present invention is to prevent such a reduction in water absorbing performance which has been developed in light of the evidence that such a reduction does occur. The Examiner has made an assumption which flies in the face of experience in the field with no evidence to support it. If indeed the Examiner believes that such an assumption is reasonable, she is requested to point out any evidence which indicates that this is the case and especially any evidence which can contradict the experimental evidence presented in the previously filed declaration.

Furthermore, Applicants point out that the burden is on the Examiner to explain why each and every feature of the claimed

invention is seen in the references or is obvious thereover. The Examiner has not made any attempt to explain why the feature of the agent not having a substantial reduction in water absorbing performance is obvious over the references. The Examiner has merely made an unsupported assumption without evidence as to why the feature would be obvious. This in itself does not meet the Examiner's burden of showing that the feature is obvious. The burden is especially not met when evidence that this is incorrect is present as has been presented in the previously filed declaration. The Examiner is requested to explain why this assumption is reasonable, why the feature is obvious and what motivation one skilled in the art would have to include this feature in view of the lack of description in the references. For these reasons, Applicants submit that independent claims 1, 5, 12 and 13 are patentable over this combination of references.

Claims 2, 3 and 6-9 depend from these allowable independent claims and as such are also considered to be allowable.

Claim 8 stands rejected under 35 USC §103 as being obvious over Paul in view of Hamajima et al as applied above in further view of Yanaki et al (U.S. Patent 5,538,728). This rejection is respectfully traversed.

The Examiner cites the Yanaki et al reference to show the use of polysaccharide as a thickener in a skin care composition. However, even if this reference does teach this feature, Applicants submit that claim 8 is still allowable based on its dependence from allowable claim 5. Accordingly, this rejection is overcome as well.

Conclusion

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination. In view of this, reconsideration of the rejections and allowance of all the claims are respectfully requested.

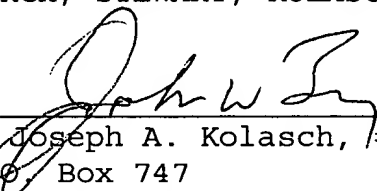
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert F. Gnuse (Reg. No. 27,295) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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